

Senate Engrossed House Bill

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 288

HOUSE BILL 2109

AN ACT

AMENDING SECTIONS 32-1904, 32-1922, 41-619.51, 41-1758 AND 41-1758.01,
ARIZONA REVISED STATUTES; RELATING TO PHARMACISTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1904, Arizona Revised Statutes, is amended to
3 read:

4 32-1904. Powers and duties of board; immunity

5 A. The board shall:

6 1. Make bylaws and adopt rules that are necessary for the protection
7 of the public and that pertain to the practice of pharmacy, the
8 manufacturing, wholesaling or supplying of drugs, devices, poisons or
9 hazardous substances, the use of pharmacy technicians and support personnel
10 and the lawful performance of its duties.

11 2. Fix standards and requirements for the registration and
12 reregistration of pharmacies, except as otherwise specified.

13 3. Investigate compliance as to the quality, label and labeling of all
14 drugs, devices, poisons or hazardous substances and take action necessary to
15 prevent the sale of these if they do not conform to the standards prescribed
16 in this chapter, the official compendium or the federal act.

17 4. Enforce its rules. In so doing, the board or its agents have free
18 access at all reasonable hours to any pharmacy, manufacturer, wholesaler,
19 nonprescription drug permittee or other establishment in which drugs,
20 devices, poisons or hazardous substances are manufactured, processed, packed
21 or held, or to enter any vehicle being used to transport or hold such drugs,
22 devices, poisons or hazardous substances for the purpose of:

23 (a) Inspecting the establishment or vehicle to determine if any
24 provisions of this chapter or the federal act are being violated.

25 (b) Securing samples or specimens of any drug, device, poison or
26 hazardous substance after paying or offering to pay for such sample.

27 (c) Detaining or embargoing a drug, device, poison or hazardous
28 substance in accordance with section 32-1994.

29 5. Examine and license as pharmacists and pharmacy interns all
30 qualified applicants as provided by this chapter.

31 6. Require each applicant for an initial license ~~to submit to the~~
32 ~~board a full set of fingerprints for the purpose of obtaining a state and~~
33 ~~federal criminal records check pursuant to section 41-1750 and Public Law~~
34 ~~92-544. The department of public safety may exchange this fingerprint data~~
35 ~~with the federal bureau of investigation~~ TO APPLY FOR A FINGERPRINT CLEARANCE
36 CARD PURSUANT TO SECTION 41-1758.03. IF AN APPLICANT IS ISSUED A VALID
37 FINGERPRINT CLEARANCE CARD, THE APPLICANT SHALL SUBMIT THE VALID FINGERPRINT
38 CLEARANCE CARD TO THE BOARD WITH THE COMPLETED APPLICATION. IF AN APPLICANT
39 APPLIES FOR A FINGERPRINT CLEARANCE CARD AND IS DENIED, THE APPLICANT MAY
40 REQUEST THAT THE BOARD CONSIDER THE APPLICATION FOR LICENSURE NOTWITHSTANDING
41 THE ABSENCE OF A VALID FINGERPRINT CLEARANCE CARD. THE BOARD, IN ITS
42 DISCRETION, MAY APPROVE AN APPLICATION FOR LICENSURE DESPITE THE DENIAL OF A
43 VALID FINGERPRINT CLEARANCE CARD IF THE BOARD DETERMINES THAT THE APPLICANT'S
44 CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED DOES NOT ALONE
45 DISQUALIFY THE APPLICANT FROM LICENSURE.

1 7. Issue duplicates of lost or destroyed permits on the payment of a
2 fee as prescribed by the board.

3 8. Adopt rules for the rehabilitation of pharmacists and pharmacy
4 interns as provided by this chapter.

5 9. At least once every three months, notify pharmacies regulated
6 pursuant to this chapter of any modifications on prescription writing
7 privileges of podiatrists, dentists, doctors of medicine, registered nurse
8 practitioners, osteopathic physicians, veterinarians, physician assistants,
9 optometrists and homeopathic physicians of which it receives notification
10 from the board of podiatry examiners, board of dental examiners, Arizona
11 medical board, board of nursing, board of osteopathic examiners in medicine
12 and surgery, veterinary medical examining board, Arizona regulatory board of
13 physician assistants, board of optometry or board of homeopathic and
14 integrated medicine examiners.

15 B. The board may:

16 1. Employ chemists, compliance officers, clerical help and other
17 employees subject to title 41, chapter 4, article 4 and provide laboratory
18 facilities for the proper conduct of its business.

19 2. Provide, by education of and information to the licensees and to
20 the public, assistance in the curtailment of abuse in the use of drugs,
21 devices, poisons and hazardous substances.

22 3. Approve or reject the manner of storage and security of drugs,
23 devices, poisons and hazardous substances.

24 4. Accept monies and services to assist in the enforcement of this
25 chapter from other than licensees:

26 (a) For performing inspections and other board functions.

27 (b) For the cost of copies of the pharmacy and controlled substances
28 laws, the annual report of the board and other information from the board.

29 5. Adopt rules for professional conduct appropriate to the
30 establishment and maintenance of a high standard of integrity and dignity in
31 the profession of pharmacy.

32 6. Grant permission to deviate from a state requirement for
33 experimentation and technological advances.

34 7. Adopt rules for the training and practice of pharmacy interns,
35 pharmacy technicians and support personnel.

36 8. Investigate alleged violations of this chapter, conduct hearings in
37 respect to violations, subpoena witnesses and take such action as it deems
38 necessary to revoke or suspend a license or a permit, place a licensee or
39 permittee on probation or warn a licensee or permittee under this chapter or
40 to bring notice of violations to the county attorney of the county in which a
41 violation took place or to the attorney general.

42 9. By rule, approve colleges or schools of pharmacy.

43 10. By rule, approve programs of practical experience, clinical
44 programs, internship training programs, programs of remedial academic work
45 and preliminary equivalency examinations as provided by this chapter.

1 11. Assist in the continuing education of pharmacists and pharmacy
2 interns.

3 12. Issue inactive status licenses as provided by this chapter.

4 13. Accept monies and services from the federal government or others
5 for educational, research or other purposes pertaining to the enforcement of
6 this chapter.

7 14. By rule, except from the application of all or any part of this
8 chapter any material, compound, mixture or preparation containing any
9 stimulant or depressant substance included in section 13-3401, paragraph 6,
10 subdivision (c) or (d) from the definition of dangerous drug if the material,
11 compound, mixture or preparation contains one or more active medicinal
12 ingredients not having a stimulant or depressant effect on the central
13 nervous system, provided that such admixtures are included in such
14 combinations, quantity, proportion or concentration as to vitiate the
15 potential for abuse of the substances that do have a stimulant or depressant
16 effect on the central nervous system.

17 15. Adopt rules for the revocation, suspension or reinstatement of
18 licenses or permits or the probation of licensees or permittees as provided
19 by this chapter.

20 C. The executive director and other personnel or agents of the board
21 are not subject to civil liability for any act done or proceeding undertaken
22 or performed in good faith and in furtherance of the purposes of this
23 chapter.

24 Sec. 2. Section 32-1922, Arizona Revised Statutes, is amended to read:

25 32-1922. Qualifications of applicant; reciprocity; preliminary
26 equivalency examination; honorary certificate; fee

27 A. An applicant for licensure as a pharmacist shall:

28 1. Be of good moral character.

29 2. Be a graduate of a school or college of pharmacy or department of
30 pharmacy of a university recognized by the board or the accreditation council
31 for pharmacy education, or qualify under subsection D of this section.

32 3. Have successfully completed, as substantiated by proper affidavits,
33 a program of practical experience under the direct supervision of a licensed
34 pharmacist WHO IS approved by the board.

35 4. Pass the pharmacist licensure examination and jurisprudence
36 examination approved by the board. An applicant who fails an examination
37 three times shall petition the board for permission before retaking the
38 examination. The board shall evaluate the petition and determine whether to
39 require additional educational training before approving each additional
40 retake of the examination.

41 5. Pay an application fee prescribed by the board of not more than
42 five hundred dollars. An applicant for reciprocal licensure shall pay the
43 fee prescribed in section 32-1924, subsection D.

1 B. The board may license as a pharmacist, without a pharmacist
2 licensure examination, a person who is licensed as a pharmacist by a
3 pharmacist licensure examination in some other jurisdiction if that person:

4 1. Produces satisfactory evidence to the board of having had the
5 required secondary and professional education and training.

6 2. Is possessed of good morals as demanded of applicants for licensure
7 and relicensure under this chapter.

8 3. Presents proof to the board's satisfaction ~~of licensure~~ THAT THE
9 PERSON IS LICENSED by a pharmacist licensure examination equivalent to the
10 pharmacist licensure examination required by the board and that the applicant
11 ~~has held~~ PERSON HOLDS the license in good standing ~~for at least one year~~. If
12 the applicant was examined after June 1, 1979, the applicant must present
13 proof to the board's satisfaction of having passed the national association
14 of boards of pharmacy licensure examination or the north American pharmacist
15 licensure examination.

16 4. Presents proof to the board's satisfaction that any other license
17 granted to the applicant by any other jurisdiction has not been suspended,
18 revoked or otherwise restricted for any reason except nonrenewal or for
19 failure to obtain the required continuing education credits in any
20 jurisdiction where the applicant is currently licensed but not engaged in the
21 practice of pharmacy.

22 5. Passes a ~~board-approved~~ BOARD-APPROVED jurisprudence examination.

23 C. Subsection B of this section applies only if the jurisdiction in
24 which the person is licensed grants, under like conditions, reciprocal
25 licensure as a pharmacist to a pharmacist WHO IS licensed by examination in
26 this state and the ~~applicant has held~~ PERSON HOLDS a license in good standing
27 ~~for at least one year~~ issued by an active member board of the national
28 association of boards of pharmacy.

29 D. If an applicant for licensure is a graduate of a pharmacy degree
30 program at a school or college of pharmacy that was not recognized by the
31 board at the time of the person's graduation, the applicant shall pass a
32 preliminary equivalency examination approved by the board in order to qualify
33 to take the examinations prescribed in subsection A of this section.

34 E. The preliminary equivalency examination required pursuant to
35 subsection D of this section shall cover proficiency in English and academic
36 areas the board deems essential to a satisfactory pharmacy curriculum.

37 F. An applicant who fails the preliminary equivalency examination
38 required pursuant to subsection D of this section shall not retake the
39 preliminary equivalency examination until the applicant files written proof
40 with the board that the applicant has completed additional remedial academic
41 work previously approved by the board to correct deficiencies in the
42 applicant's education that were indicated by the results of the applicant's
43 last preliminary equivalency examination.

44 G. A pharmacist who has been licensed in this state for at least fifty
45 years shall be granted an honorary certificate of licensure by the board

1 without the payment of the usual renewal fee, but that certificate of
2 licensure does not confer an exemption from any other requirement of this
3 chapter.

4 H. The board may require a pharmacist who has not been actively
5 engaged in the practice of pharmacy for over one year to serve not more than
6 four hundred hours in an internship training program approved by the board or
7 its designee before the pharmacist may resume the active practice of
8 pharmacy.

9 I. An applicant must complete the application process within twelve
10 months after submitting the application.

11 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to
12 read:

13 41-619.51. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Agency" means the supreme court, the department of economic
16 security, the department of child safety, the department of education, the
17 department of health services, the department of juvenile corrections, the
18 department of emergency and military affairs, the department of
19 transportation, the state real estate department, the ~~state board of~~
20 ~~appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the Arizona game and fish
21 department, ~~or~~ the board of examiners of nursing care institution
22 administrators and assisted living facility managers, THE STATE BOARD OF
23 DENTAL EXAMINERS OR THE ARIZONA STATE BOARD OF PHARMACY.

24 2. "Board" means the board of fingerprinting.

25 3. "Central registry exception" means notification to the department
26 of economic security, the department of child safety or the department of
27 health services, as appropriate, pursuant to section 41-619.57 that the
28 person is not disqualified because of a central registry check conducted
29 pursuant to section 8-804.

30 4. "Expedited review" means an examination, in accordance with board
31 rule, of the documents an applicant submits by the board or its hearing
32 officer without the applicant being present.

33 5. "Good cause exception" means the issuance of a fingerprint
34 clearance card to an employee pursuant to section 41-619.55.

35 6. "Person" means a person who is required to be fingerprinted
36 pursuant to this article or who is subject to a central registry check and
37 any of the following:

- 38 (a) Section 8-105.
- 39 (b) Section 8-322.
- 40 (c) Section 8-463.
- 41 (d) Section 8-509.
- 42 (e) Section 8-802.
- 43 (f) Section 8-804.
- 44 (g) Section 15-183.
- 45 (h) Section 15-503.

1 (i) Section 15-512.
2 (j) Section 15-534.
3 (k) Section 15-763.01.
4 (l) Section 15-782.02.
5 (m) Section 15-1330.
6 (n) Section 15-1881.
7 (o) Section 17-215.
8 (p) Section 28-3413.
9 (q) Section 32-1232.
10 (r) SECTION 32-1284.
11 (s) SECTION 32-1297.01.
12 (t) SECTION 32-1904.
13 ~~(r)~~ (u) Section 32-2108.01.
14 ~~(s)~~ (v) Section 32-2123.
15 ~~(t)~~ (w) Section 32-2371.
16 ~~(u)~~ (x) Section 32-2372.
17 ~~(v)~~ (y) Section 32-3620.
18 ~~(w)~~ (z) Section 32-3668.
19 ~~(x)~~ (aa) Section 32-3669.
20 ~~(y)~~ (bb) Section 36-207.
21 ~~(z)~~ (cc) Section 36-411.
22 ~~(aa)~~ (dd) Section 36-425.03.
23 ~~(bb)~~ (ee) Section 36-446.04.
24 ~~(cc)~~ (ff) Section 36-594.01.
25 ~~(dd)~~ (gg) Section 36-594.02.
26 ~~(ee)~~ (hh) Section 36-882.
27 ~~(ff)~~ (ii) Section 36-883.02.
28 ~~(gg)~~ (jj) Section 36-897.01.
29 ~~(hh)~~ (kk) Section 36-897.03.
30 ~~(ii)~~ (ll) Section 36-3008.
31 ~~(jj)~~ (mm) Section 41-619.53.
32 ~~(kk)~~ (nn) Section 41-1964.
33 ~~(ll)~~ (oo) Section 41-1967.01.
34 ~~(mm)~~ (pp) Section 41-1968.
35 ~~(nn)~~ (qq) Section 41-1969.
36 ~~(oo)~~ (rr) Section 41-2814.
37 ~~(pp)~~ (ss) Section 46-141, subsection A.
38 ~~(qq)~~ (tt) Section 46-321.
39 Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to read:
40 41-1758. Definitions
41 In this article, unless the context otherwise requires:
42 1. "Agency" means the supreme court, the department of economic
43 security, the department of child safety, the department of education, the
44 department of health services, the department of juvenile corrections, the
45 department of emergency and military affairs, the department of

1 transportation, the state real estate department, the ~~state board of~~
2 ~~appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the board of fingerprinting,
3 the Arizona game and fish department, ~~or~~ the board of examiners of nursing
4 care institution administrators and assisted living facility managers, THE
5 STATE BOARD OF DENTAL EXAMINERS OR THE ARIZONA STATE BOARD OF PHARMACY.

6 2. "Division" means the fingerprinting division in the department of
7 public safety.

8 3. "Electronic or internet-based fingerprinting services" means a
9 secure system for digitizing applicant fingerprints and transmitting the
10 applicant data and fingerprints of a person or entity submitting fingerprints
11 to the department of public safety for any authorized purpose under this
12 title. For the purposes of this paragraph, "secure system" means a system
13 that complies with the information technology security policy approved by the
14 department of public safety.

15 4. "Good cause exception" means the issuance of a fingerprint
16 clearance card to an applicant pursuant to section 41-619.55.

17 5. "Person" means a person who is required to be fingerprinted
18 pursuant to any of the following:

- 19 (a) Section 8-105.
- 20 (b) Section 8-322.
- 21 (c) Section 8-463.
- 22 (d) Section 8-509.
- 23 (e) Section 8-802.
- 24 (f) Section 15-183.
- 25 (g) Section 15-503.
- 26 (h) Section 15-512.
- 27 (i) Section 15-534.
- 28 (j) Section 15-763.01.
- 29 (k) Section 15-782.02.
- 30 (l) Section 15-1330.
- 31 (m) Section 15-1881.
- 32 (n) Section 17-215.
- 33 (o) Section 28-3413.
- 34 (p) Section 32-1232.
- 35 (q) SECTION 32-1284.
- 36 (r) SECTION 32-1297.01.
- 37 (s) SECTION 32-1904.
- 38 ~~(q)~~ (t) Section 32-2108.01.
- 39 ~~(r)~~ (u) Section 32-2123.
- 40 ~~(s)~~ (v) Section 32-2371.
- 41 ~~(t)~~ (x) Section 32-2372.
- 42 ~~(u)~~ (y) Section 32-3620.
- 43 ~~(v)~~ (z) Section 32-3668.
- 44 ~~(w)~~ (aa) Section 32-3669.
- 45 ~~(x)~~ (bb) Section 36-207.

1 ~~(y)~~ (cc) Section 36-411.
2 ~~(z)~~ (dd) Section 36-425.03.
3 ~~(aa)~~ (ee) Section 36-446.04.
4 ~~(bb)~~ (ff) Section 36-594.01.
5 ~~(cc)~~ (gg) Section 36-594.02.
6 ~~(dd)~~ (hh) Section 36-882.
7 ~~(ee)~~ (ii) Section 36-883.02.
8 ~~(ff)~~ (jj) Section 36-897.01.
9 ~~(gg)~~ (kk) Section 36-897.03.
10 ~~(hh)~~ (ll) Section 36-3008.
11 ~~(ii)~~ (mm) Section 41-619.52.
12 ~~(jj)~~ (nn) Section 41-619.53.
13 ~~(kk)~~ (oo) Section 41-1964.
14 ~~(ll)~~ (pp) Section 41-1967.01.
15 ~~(mm)~~ (qq) Section 41-1968.
16 ~~(nn)~~ (rr) Section 41-1969.
17 ~~(oo)~~ (ss) Section 41-2814.
18 ~~(pp)~~ (tt) Section 46-141, subsection A.
19 ~~(qq)~~ (uu) Section 46-321.
20 6. "Vulnerable adult" has the same meaning prescribed in section
21 13-3623.
22 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
23 read:
24 41-1758.01. Fingerprinting division: powers and duties
25 A. The fingerprinting division is established in the department of
26 public safety and shall:
27 1. Conduct fingerprint background checks for persons and applicants
28 who are seeking licenses from state agencies, employment with licensees,
29 contract providers and state agencies or employment or educational
30 opportunities with agencies that require fingerprint background checks
31 pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503,
32 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3413,
33 32-1232, 32-1284, 32-1297.01, 32-1904, 32-2108.01, 32-2123, 32-2371, 32-2372,
34 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01,
35 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52,
36 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,
37 subsection A and section 46-321.
38 2. Issue fingerprint clearance cards. On issuance, a fingerprint
39 clearance card becomes the personal property of the cardholder and the
40 cardholder shall retain possession of the fingerprint clearance card.
41 3. On submission of an application for a fingerprint clearance card,
42 collect the fees established by the board of fingerprinting pursuant to
43 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
44 monies collected in the board of fingerprinting fund.

1 4. Inform in writing each person who submits fingerprints for a
2 fingerprint background check of the right to petition the board of
3 fingerprinting for a good cause exception pursuant to section 41-1758.03,
4 41-1758.04 or 41-1758.07.

5 5. If after conducting a state and federal criminal history records
6 check the division determines that it is not authorized to issue a
7 fingerprint clearance card to a person, inform the person in writing that the
8 division is not authorized to issue a fingerprint clearance card. The notice
9 shall include the criminal history information on which the denial was
10 based. This criminal history information is subject to dissemination
11 restrictions pursuant to section 41-1750 and Public Law 92-544.

12 6. Notify the person in writing if the division suspends, revokes or
13 places a driving restriction notation on a fingerprint clearance card
14 pursuant to section 41-1758.04. The notice shall include the criminal
15 history information on which the suspension, revocation or placement of the
16 driving restriction notation was based. This criminal history information is
17 subject to dissemination restrictions pursuant to section 41-1750 and Public
18 Law 92-544.

19 7. Administer and enforce this article.

20 B. The fingerprinting division may contract for electronic or
21 internet-based fingerprinting services through an entity or entities for the
22 acquisition and transmission of applicant fingerprint and data submissions to
23 the department, including identity verified fingerprints pursuant to section
24 15-106. The entity or entities contracted by the department of public safety
25 may charge the applicant a fee for services provided pursuant to this
26 article. The entity or entities contracted by the department of public
27 safety shall comply with:

28 1. All information privacy and security measures and submission
29 standards established by the department of public safety.

30 2. The information technology security policy approved by the
31 department of public safety.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House January 28 2016

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

☐ Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate March 30, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2109

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

L. R.
Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of May, 2016.

at 3:42 o'clock P. M.

Trista Byrnes
Secretary to the Governor

Approved this 17th day of

May, 2016,

at 1:03 o'clock P. M.

Donald R. Rumsfeld
Governor of Arizona

H.B. 2109

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17th day of May, 2016,

at 4:35 o'clock P. M.

Michael Reagan
Secretary of State